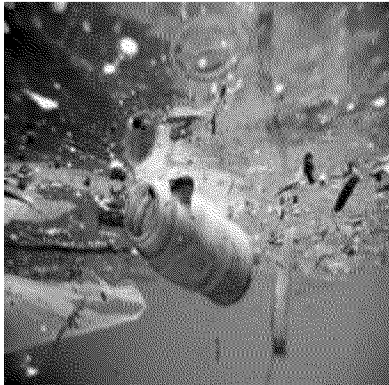


To: Bartlett, Deane[Bartlett.Deane@epa.gov]; Cozad, David[Cozad.David@epa.gov]; Dierker, Carl[Dierker.Carl@epa.gov]; Dolph, Becky[Dolph.Becky@epa.gov]; Field, Stephen[Field.Stephen@epa.gov]; Frankenthaler, Douglas[Frankenthaler.Douglas@epa.gov]; Frey, Bert[frey.bertram@epa.gov]; Gable, Kelly[Gable.Kelly@epa.gov]; Giles-AA, Cynthia[Giles-AA.Cynthia@epa.gov]; Harrison, Ben[Harrison.Ben@epa.gov]; Kaplan, Robert[kaplan.robert@epa.gov]; Mackey, Cyndy[Mackey.Cyndy@epa.gov]; Michaud, John[Michaud.John@epa.gov]; Morgan, Jeanette[Morgan.Jeanette@epa.gov]; Muller, Sheldon[Muller.Sheldon@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Rodrigues, Cecil[rodrigues.cecil@epa.gov]; Schaaf, Eric[Schaaf.Eric@epa.gov]; Senn, John[Senn.John@epa.gov]; Shapiro, Mike[Shapiro.Mike@epa.gov]; Shepherdson, Melanie[Shepherdson.Melanie@epa.gov]; Siegal, Tod[Siegal.Tod@epa.gov]; Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Stern, Allyn[Stern.Allyn@epa.gov]; Theis, Joseph[Theis.Joseph@epa.gov]; Wade, Alexis[Wade.Alexis@epa.gov]; Walker, Mike[Walker.Mike@epa.gov]; Ward, W. Robert[Ward.Robert@epa.gov]; OGC WLO[OGC_WLO@epa.gov]; Conger, Nick[Conger.Nick@epa.gov]; Tozzi, Lauren[Tozzi.Lauren@epa.gov]; Walker, Denise[Walker.Denise@epa.gov]; Charlton, Tom[Charlton.Tom@epa.gov]; Portmess, Jessica[Portmess.Jessica@epa.gov]; Kaminer, Joan[Kaminer.Joan@epa.gov]; OGC FEAT[OGC_FEAT@epa.gov]; Sullivan, Tim[Sullivan.Tim@epa.gov]; Ng, Allison[ng.allison@epa.gov]; Ng, Brian[Ng.Brian@epa.gov]; Baptista, Chrisna[Baptista.Chrisna@epa.gov]; Speir, Jeffrey[speir.jeffrey@epa.gov]; Gonzalez, Sarah[Gonzalez.Sarah@epa.gov]; Wilson, Dane[Wilson.Dane@epa.gov]; Grisby, Erin[grisby.erin@epa.gov]; McLaren, William[mclaren.william@epa.gov]; Rog, Morgan[Rog.Morgan@epa.gov]
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Water Law News

for April 27, 2017

Bloomberg **Daily Environment Report**[™] **BNA**

News

Enforcement

PG&E Fined \$8.3 Million for 2015 California Wildfire

Pacific Gas & Electric Co. was fined \$8.3 million for sparking a 2015 California wildfire that burned 70,000 acres and killed two people, the California Public Utilities Commission said.

Oil & Gas

Oil Tankers Threaten Endangered Orcas, Tribes Say in Lawsuit

Already-endangered killer whales in the waters west of Seattle face heightened risk from an increased traffic of tankers that will carry oil from Kinder Morgan Inc.'s \$5.4 billion Trans Mountain Pipeline expansion, two Native American organizations claim in a federal lawsuit.

Oil & Gas

Trump Said to Order Oil Drilling Study of All Federal Waters

President Donald Trump will order the Interior Department to review locations for offshore oil and gas exploration and consider selling drilling rights in territory that former President Barack Obama put off limits, according to people briefed on the order who spoke on the condition of anonymity before it is issued.

Water Pollution

New Water Rule Would Protect Fewer Streams, Senate Told

Fewer lakes, rivers and streams would receive federal protections if the EPA follows the late Justice Antonin Scalia's recommendation to read the jurisdiction of the Clean Water Act narrowly, a former agency official said.

Hill Watch

Hill Watch: Coal Mining

Hill Watch: Science Policy

Hill Watch: Water Pollution

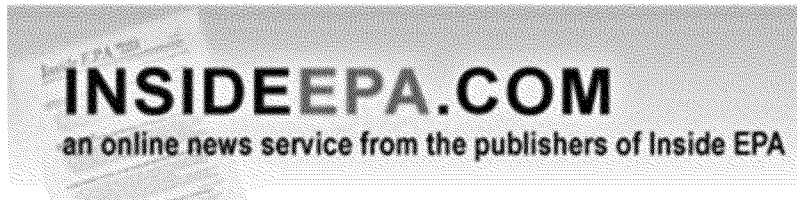
Regulatory Agenda

TODAY'S FEDERAL REGISTER

NOTICE. Daily Environment Report's Regulatory Agenda, Comment Deadlines, and Federal Register summaries are now published as part of EHS Federal Regulatory AlertTM <http://news.bna.com/frmn/>.

TODAY'S STATE REGISTERS

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TRUMP'S EPA: Agency at a crossroads -- Complete coverage

Inside EPA's **Weekly Report**, 04/28/2017

<https://insideepa.com/newsletters/inside-epa>

Clean Water Act Jurisdiction Watch

<http://insideepa.com/specials/clean-water-act-jurisdiction>

Latest News

EPW Hearing Shows Procedural Pitfalls For Trump's CWA Jurisdiction Rule

Democratic senators and the Obama EPA's former top water official at an April 26 environment panel hearing said the Trump administration faces significant procedural pitfalls in crafting a rule to replace the Obama-era Clean Water Act (CWA) jurisdiction rule, including legal hurdles and a need to conduct extensive new research for it.

Free-Market Group Defends CRA's Legality From Environmentalists' Attack

A free-market group is laying out an early rebuttal to environmentalists' novel court challenge to the Congressional Review Act (CRA), previewing arguments the Trump administration and its allies could raise as they defend the constitutionality of the CRA resolutions Congress has used to invalidate 13 Obama-era regulations.

Critics Fear EPA Budget Will Spur State Race To The Bottom On Enforcement

Preliminary Trump administration plans to cut EPA enforcement spending on delegated programs risk a race to the bottom on environmental compliance that could hamper state as well as federal enforcement and create competitive disadvantage for companies that comply with environmental laws, a former agency official and other observers say.

States, Industry Raise Implementation Concerns Over Cyanotoxins Criteria

State regulators and publicly owned treatment works (POTWs) are raising implementation concerns about EPA's draft recreational water quality criteria for the cyanotoxins microcystins and cylindrospermopsin, including how states will use the criteria in discharge permits and monitoring for compliance, while questioning the science behind the criteria.

Daily Feed

Senators offer companion to House regulatory reform bill

A bipartisan group of senators introduce a Senate companion to House-passed regulatory reform legislation.

Sen. Whitehouse seeks to block Pruitt's speech at GOP fundraiser

"[T]he unmistakable impression one receives . . . is that by purchasing a ticket or agreeing to sponsor the OKGOP Gala, the attendee will have special access to a federal employee," the senator says.

Bodine said to be considered for EPA No. 2 slot

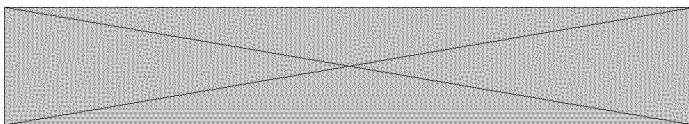
A top Senate aide is said to be under consideration as EPA's deputy administrator.

Quote-unquote: Industry tells Commerce the way they think it should be

Industry groups give the Commerce Department an earful on EPA's permitting programs, previewing comments the agency is likely to receive in its regulatory review process.

Ewire: A daily news roundup

Trump may benefit from Energy Star rollback. Plus, Bipartisan senators oppose Region 5 closure plan and Pruitt draws Hatch Act complaint.

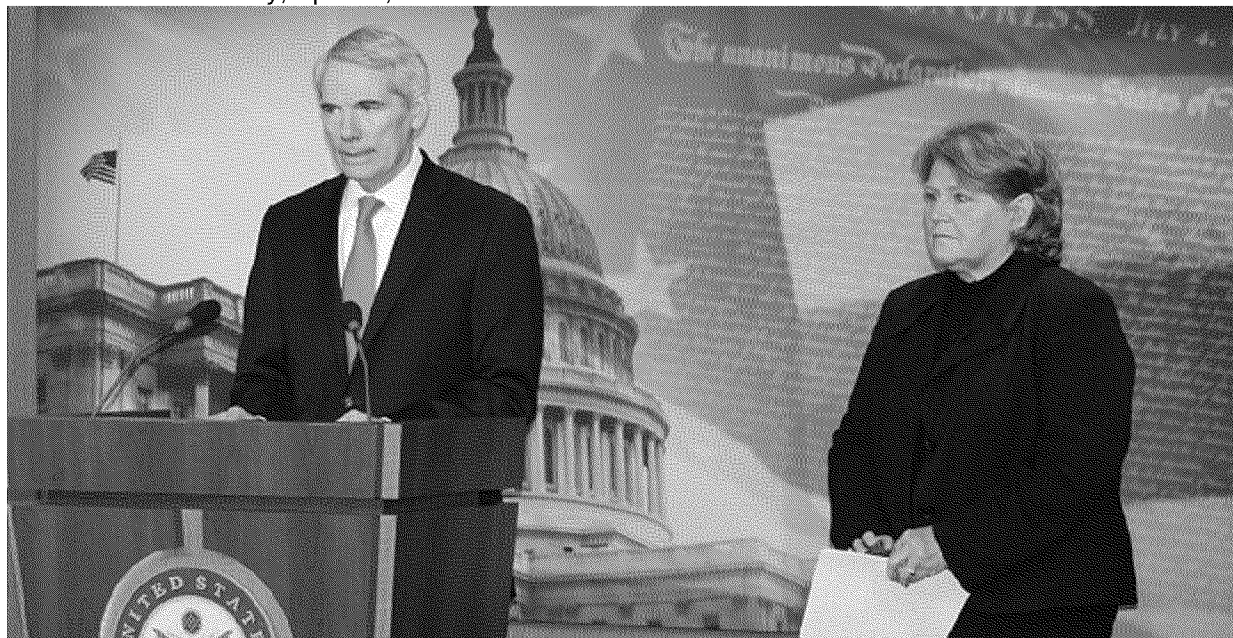


REGULATIONS

Bipartisan Senate bill would overhaul rulemaking

Arianna Skibell, E&E News reporter

Published: Wednesday, April 26, 2017



Sens. Rob Portman (R-Ohio) and Heidi Heitkamp (D-N.D.) introduce regulatory reform legislation on Capitol Hill.
Photo courtesy of @senrobportman via Twitter.

Sens. Rob Portman (R-Ohio) and Heidi Heitkamp (D-N.D.) introduced bipartisan legislation this morning to change the way agencies issue rules for the first time in 70 years.

The long-awaited "Regulatory Accountability Act" would amend the 1946 Administrative Procedure Act by requiring federal agencies to conduct cost-benefit analyses.

The proposal would also trigger an automatic review process for major regulations, allow hearings on the most significant federal actions and require agencies to inform the public earlier before they plan to begin working on a new rule.

"Back in the '80s, when I graduated from law school, you couldn't eat fish out of the Great Lakes, it was too dangerous. A decade before, you had rivers lighting on fire, you had spontaneous explosions in landfills in New Jersey," Heitkamp said at a press briefing this morning.

"No one wants to go back to those conditions."

Heitkamp said the measure would not reverse or prevent environmental and public health protections, but rather give the public greater input from the outset, before a rule is promulgated.

Clean Water Act jurisdiction guidelines have been subject to decades of litigation. Heitkamp said, "Additional engagement may take more time on the front end, but you'll get a rule that can survive judicial scrutiny."

Heitkamp also said the latest version of the bill, which Portman first introduced in 2010, is substantially different from House language, H.R. 5, that passed early this year.

While both versions would require agencies to find the least costly alternative for rules, the Senate bill includes a "savings clause" to avoid overriding existing cost-benefit stipulations.

For example, U.S. EPA is charged with setting standards for ozone and other pollutants every five years under the Clean Air Act. In 2001, the Supreme Court barred the agency from considering compliance costs in setting ambient air standards in *Whitman v. American Trucking Associations Inc.* Under the "savings clause" provision, the Senate "Regulatory Accountability Act" would not override that ban.

The second major difference is that the Senate bill, Heitkamp said, would require an automatic review of major rules within 10 years of issuance. "It would guarantee for major rules there would be an ongoing process for review," she said.

Portman noted that every president since Reagan, including Clinton and Obama, has required agencies to conduct cost-benefit analyses when issuing new regulations.

'Tilt the scales'

Environmentalists and some public interest groups, however, oppose the codification on the process. Yogin Kothari, Washington representative for the Union of Concerned Scientists' Center for Science and Democracy, said putting the practice into law would make it harder to finalize public health and environmental protections.

"It simply provides another opportunity for regulated industries to challenge and undermine science-based safeguards intended to protect Americans," he said in an email.

"Ultimately, these kinds of requirements will build upon President Trump's agenda to deregulate and gut public health and consumer protections."

The legislation could also slow the deregulatory process President Trump has promised. Portman said it's not about aiding one party's agenda. "It's what is the best policy," he said. "It makes so much darn sense."

Business groups, like the U.S. Chamber of Commerce, are praising the measure as a common-sense way to unburden small businesses and expand the economy.

"The Regulatory Accountability Act would increase scrutiny of the most expensive rules that cut across industries and sectors, requiring greater transparency and agency accountability," Neil Bradley, the group's senior vice president and chief policy officer, said in a statement.

"We encourage all Senators to support this bipartisan reform legislation that can encourage business expansion, spur job creation, and ultimately help grow the American economy."

Scott Slesinger, legislative director of the Natural Resources Defense Council, said the measure would "tilt the scales" in the direction of polluters.

"It would make it virtually impossible to safeguard the public from dirty air, unsafe drinking water and other health threats," he said in a statement.

'Time has come'

The American Forest & Paper Association and the American Wood Council are supporting the bill, while the BlueGreen Alliance, the Union for Concerned Scientists and other public health groups are opposing it.

Heitkamp said she doesn't know yet whether enough Democrats can support the package because they haven't had a chance to look at the measure in its current form.

"It's not like everybody has had a chance to see it," she said. "Usually, people have new ideas they'll bring to the table. It may require some amendments."

Heitkamp said she and Portman are open to listening to new ideas about ways to improve the bill. The two agreed, however, that the "time has come" to update the rulemaking process.

ADVOCACY

Activists crash Heritage Foundation over cuts

Nick Bowlin, E&E News reporter

Published: Wednesday, April 26, 2017



Protesters outside the Heritage Foundation in Washington, D.C., yesterday. A government relations aide at Heritage retweeted the picture to promote the group's spending proposals, which the demonstrators were opposing. Photo courtesy of @Heritage_Action via Twitter.

Protesters stormed the conservative Heritage Foundation yesterday, condemning President Trump's

proposed budget cuts and the group's role in drafting them.

That same evening, Heritage used the demonstrations as fuel for fundraising. In an email to supporters, President Jim DeMint said the foundation was proud of its "Blueprint for Balance" that informed the White House proposal, and asked for contributions.

"This isn't the first time Heritage has come under attack from the left and it won't be the last," DeMint wrote. It's not uncommon for politicians or groups to take advantage of actions from their opposition to raise money.

The protestors occupied the Heritage lobby on Massachusetts Avenue in Washington near the Capitol after a demonstration outside the White House.

The activists were members of the People's Action coalition, a mix of progressive groups who oppose spending cuts they say would devastate the environment, low-income families and communities of color.

EPA

Puerto Rico financial crisis hits water funds — IG

Cecelia Smith-Schoenwalder, E&E News reporter

Published: Wednesday, April 26, 2017

More than \$188 million in federal clean drinking water revolving funds for Puerto Rico is unavailable, U.S. EPA's inspector general found in an audit released today.

Puerto Rico and the Puerto Rico Government Development Bank are in a financial crisis that puts more than \$774 million of two water revolving funds at risk.

EPA reported irregularities in the island's Clean Water and Drinking Water state revolving fund dollars to the IG's office. EPA suspected that the bank did not have enough funds to honor the balance and that local leaders were misusing it.

Investigators found that the managing agencies — the Puerto Rico Department of Health, the Environmental Quality Board and the Infrastructure Financing Authority — did not misuse the funds.

Still, the report found that the two revolving funds are unlikely to bounce back in the near future. The audit also said EPA could not have prevented or predicted the situation.

Puerto Rico regulators and EPA did not become aware of the revolving fund problems until 2016, said the IG report.

"Furthermore, as soon as the irregularities were discovered, the EPA provided adequate oversight to address the issues and worked with the managing agencies to safeguard future revolving fund transactions," investigators found.

The revolving funds balance consisted of loan repayments and interest, which the Puerto Rican government has pledged to restore in a 10-year plan. Still, according to the audit, no significant withdrawals are likely in the future.

The IG recommended that EPA's Region 2 administrator evaluate ways to restore the money or "implement strategies better suited to the financial, programmatic, public health and environmental needs of the government of Puerto Rico."

CALIFORNIA

Oroville spillway repairs to go into next summer

Published: Wednesday, April 26, 2017

State officials acknowledged yesterday that some of the work needed to fix the Oroville Dam spillways would wait until next summer but promised that the spillways would be functional by this November, when the rainy season returns.

"Worst-case scenario, we could continue like we are today," Bill Croyle, acting director of the state Department of Water Resources, told members of the state Senate Natural Resources and Water Committee.

Committee members questioned the \$275 million contract that was recently awarded to Kiewit Corp. to fix the two damaged spillways.

Lawmakers were concerned about the consequences of not completing the repairs in time for the next rainy season.

"Is it written in a way that we're protected?" asked committee Chairman Robert Hertzberg (D), who wanted to know if Kiewit would be assessed penalties if work isn't completed on time.

Croyle had a testy exchange with Assemblyman James Gallagher (R) after Croyle insisted that the dam's emergency spillway worked during the worst part of the emergency, which Gallagher found baffling (Dale Kasler, [Sacramento Bee](#), April 25). — **CS**

NEVADA

Bill requiring water budgets, surveys breezes through Senate

Published: Wednesday, April 26, 2017

The Nevada Senate unanimously approved a bill yesterday that would require the state engineer to create a water budget and groundwater inventory for each of the state's 256 water basins.

The bill also would require that surface and groundwater be managed in tandem, not as separate resources.

It also would penalize water rights users that mismanage the resource.

The bill now heads to the General Assembly (Sandra Chereb, [Las Vegas Review-Journal](#), April 25). — **NB**

NORTH CAROLINA

Bill would cut stream bank protections, plastic bag ban

Published: Wednesday, April 26, 2017

The North Carolina Senate passed a bill Monday that would do away with a 50-foot shoreline buffer protecting the Catawba River and nearby lakes from runoff and bank erosion.

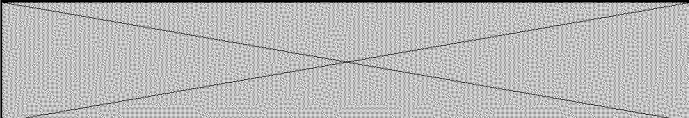
It would also block local governments from creating their own buffers, eliminating several county-level buffers.

Buffers prohibit cutting trees and vegetation near the shore.

The bill would also repeal the Outer Banks plastic bag ban designed to protect sea turtles.


Environmentalists were furious.

The House will now consider a companion bill. The Catawba River has more than 1,000 miles of protected area (Joe Marusak, *Charlotte Observer*, April 25). — NB



AN E&E NEWS PUBLICATION

CLIMATEWIRE — Thu., April 27, 2017

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1.COAL:
Big, young coal plants are closing. Is it a new trend?
Many of the U.S. coal plants retired in recent years were geezers by industry standards. They trended old and small, and ran a fraction of the time. But in a vexing sign for the industry, those in the next round of retirements are decidedly middle-aged.

TOP STORIES

2.SCIENCE:
In N.Y. tunnels, climate change is an 'urgent reality'

3.ELECTRIC VEHICLES:
Koch group opposed clean car perk and lost

4.PARIS AGREEMENT:
Today could expose strengths, and weaknesses, in Cabinet

ADAPTATION

5.SEA-LEVEL RISE:
Calif. in 'bull's-eye' as ice melts faster

CONGRESS

6.POLITICS:
Climate resolutions could disappear under bill

INTERNATIONAL

7.FINANCE:
French insurer pulls coal investments worth nearly \$200M

8.ADAPTATION:

Historic coal mine threatened by rising seas

9.COLOMBIA:

12M people vulnerable to climate disasters — minister

SCIENCE AND TECHNOLOGY

10.ARCTIC:

Abrupt river changes one sign of Yukon warming

11.MEDIA:

TV weather forecasters press the climate case

AN E&E NEWS PUBLICATION

ENERGYWIRE — Thu., April 27, 2017

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1.NUCLEAR:

Financial deadlines loom for U.S. reactor projects

The electric companies building nuclear reactors in Georgia and South Carolina continue to negotiate with Westinghouse Electric Co. LLC as a key contract deadline grows closer. The fate of the nation's first nuclear projects in three decades hangs in the balance.

TOP STORIES

2.SAFETY:

Anadarko closes Colo. operations after fatal home explosion

3.TECHNOLOGY:

Solar firm prods Trump to start a trade war

4.UTILITIES:

FirstEnergy faces more fallout from long-term coal bet

TRANSITION

5.TRADE:

Canadians pledge to crack down on U.S. coal

6.NATIONAL MONUMENTS:

Trump's order could offer new openings for energy firms

7.DOE:

Perry's vision of a powerful federal role has its limits

8.SAFETY:

OSHA staff blocked from talking to the press

OIL AND GAS

9.EARTHQUAKES:

What to do with oil-field waste? Okla. panel says reuse it

10.REGULATION:

Ore. lawmakers consider fracking ban

11.LAW:

ELECTRICITY

Motion seeks to halt gas royalty case rehearing

12. **ECONOMICS:**

Slowing global growth helps explain demise of U.S. coal

13. **POWER PLANTS:**

Entergy reassesses New Orleans project

14. **TECHNOLOGY:**

Reliant Energy develops 'smart house'

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